

BEFORE THE COMMISSIONER OF  
POLITICAL PRACTICES

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In the Matter of the Complaint ) **SUMMARY OF FACTS**  
Against Brett Lund ) **AND**  
) **STATEMENT OF FINDINGS**

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Trevis Butcher filed a complaint alleging that Brett Lund violated Montana campaign finance and practices laws.

**SUMMARY OF FACTS**

1. Prior to the 2006 general election, sponsors of Montana Constitutional Initiative 97 (CI-97) obtained sufficient signatures to place the measure on the ballot. CI-97 would have amended the Montana Constitution by placing a limit on state government spending.

According to the Attorney General's statement explaining the purpose of the measure, CI-97 would have prohibited increases in appropriations greater than the combined growth rate of population and inflation, and would have allowed appropriations up to the largest spending limit for any previous biennium.

2. Trevis Butcher, the complainant, was the Treasurer of a political committee known as *Yes CI-97 Stop Overspending Montana*, which was the primary ballot issue committee organized in favor of CI-97.

3. A political committee known as *Not In Montana: Citizens Against CI-97 (NIM)* was organized as a ballot issue committee to oppose CI-97.

4. Proponents of CI-97 gathered signatures for the initiative until June 23, 2006, the date on which all gathered signatures had to be submitted to county election administrators for certification. Although the proponents of CI-97 used some Montana citizens to gather signatures, they relied primarily on paid out-of-state signature gatherers.

5. The proponents of the initiative submitted their petitions to the county election administrators, who certified them and then submitted them to the Secretary of State's office. The Secretary of State ultimately certified 47,905 signatures for CI-97, which was more than the minimum number of signatures necessary to place the measure on the ballot. CI-97 was certified to the Governor on July 21, 2006. On August 24, 2006, the Secretary of State's office certified CI-97 to the county election administrators for preparation and printing of ballots for the election.

6. Representatives of *NIM* discussed and considered the possibility of hiring someone to conduct handwriting analysis of signatures obtained by several of the paid out-of-state signature gatherers for CI-97, to determine whether any signatures had been forged or had otherwise been fraudulently obtained.

7. Someone recommended Brett Lund as a person who could conduct the handwriting analysis of the questioned signatures. Lund is a Detective in the *Billings Police Department (BPD)*. Lund also has a private business known as *Rocky Mountain Crime Consultants*, which conducts document examination and handwriting analysis for a fee.

8. Jackie Boyle, coordinator of *NIM*, contacted Lund and asked how *NIM* could verify the validity of the signatures gathered for CI-97. Lund advised that the signatures would have to be compared with signatures in the voter files. *NIM* was particularly interested in having someone examine the signatures gathered by Marvin King, one of the paid out-of-state signature gatherers. *NIM* was aware that King had collected a large number of signatures for CI-97, and had signed a number of affidavits pursuant to § 13-27-302, MCA, certifying that he had gathered or assisted in the gathering of the signatures and that the signatures met all the requirements of the statute.

9. Following a telephone conversation between Boyle and Lund, *NIM* hired Lund to travel to Helena to analyze the signatures collected for CI-97. In a follow-up email on July 12, 2006, Boyle confirmed that Lund would travel to Helena on July 17, 2006, to examine the signatures. The email stated that *NIM* would pay Lund \$75 per hour plus compensate him for any vacation time from his BPD job that he might use to complete the work. *NIM* also agreed to pay Lund's travel costs. The agreement reflected Lund's standard fee for his services.

10. On the morning of July 17, 2006, representatives of *NIM*, after further review of the signatures, came to the conclusion that the signatures collected by King were authentic. *NIM* attempted to contact Lund to cancel his trip, but Lund was apparently already on his way to Helena.

11. Lund arrived at *NIM* headquarters in Helena around 10:30 a.m. on July 17, 2006. Upon his arrival he was informed that *NIM* no longer required his services. Nevertheless, Lund expressed an interest in the issues that *NIM* was looking into, and he consequently spent the next several hours reviewing some of the signatures obtained by King. Lund also examined signatures collected by two other paid out-of-state signature gatherers – Ron Cook of Texas and Grace Meyer of Michigan.

12. A signature gatherer who signs and submits an affidavit pursuant to § 13-27-302, MCA must include his or her address on the affidavit. Signature gatherer Marvin King had listed as his address 208 Pricket Lane #1, Billings, Montana. Representatives of *NIM* told Lund that they had tried to obtain additional information regarding the address, but were unsuccessful.

13. Lund noted that 208 Pricket Lane is located in a "bad area." He said it was a section of Billings where he was currently conducting some criminal investigations as a detective with the BPD. There followed a lengthy discussion between Lund and representatives of *NIM* regarding various issues, including whether the 208 Pricket Lane address was a fictitious address, and, if it was a genuine address, whether King actually lived there.

Although representatives of *NIM* observed that Lund appeared to be curious about the authenticity of the 208 Pricket Lane address, they did not direct or request Lund to verify whether or not King lived at the Billings address.

14. During his meeting with representatives of *NIM* Lund also spent some time explaining the various aspects and techniques of handwriting analysis, and Lund told them what to look for to determine whether signatures had been forged. Lund told the representatives of *NIM*, however, that he was unable to determine whether any of the signatures on the ballot sheets were forged.

15. Prior to leaving Helena Lund asked *NIM* representatives whether they wanted a written report, and they told Lund no.

16. On July 18, 2006 Lund returned to work at the BPD. Using his work computer he determined that Rebecca (Becky) Butcher resided at 208 Pricket Lane #1, in Billings. Lund did not recognize her name. He drove to 208 Pricket Lane in his unmarked BPD vehicle, while on duty. He knocked on the door of apartment #1 and was greeted by Becky Butcher.

In plain clothes, Lund identified himself as an officer with the BPD, and he showed Butcher his badge. Lund asked Butcher whether Marvin King lived at 208 Pricket Lane #1. Butcher said King did not live there. Lund told Butcher that King had been using the 208 Pricket #1 address. Lund also asked Butcher whether she knew King, had heard of King, or had received any mail addressed to King at that address. Becky Butcher answered “no” to all of Lund’s questions.

During the visit, which lasted five or ten minutes, Lund did not discuss CI-97, *NIM*, Trevis Butcher, ballot issues, or anything political. Lund gave Butcher his BPD business card, with his BPD cell phone number hand-written on the card. He asked Butcher to call him if she thought of any other information, and he left.

17. After Lund left, Becky Butcher telephoned and spoke with her mother and father. Her father advised her to call her brother, Trevis Butcher. She telephoned Trevis Butcher and told him about Lund's visit and his questions. Becky Butcher gave Trevis Butcher Lund's name and telephone number.

18. Trevis Butcher placed two telephone calls to Lund and asked him about his visit to 208 Pricket #1. Lund told Butcher he was investigating the address of Marvin King, but he declined to provide any details. During the telephone conversations Lund did not state that he was performing work for *NIM*. Butcher asked whether Lund's investigation was official police business or personal. Lund responded "not official."

Trevis Butcher's impression is that Lund was not very forthcoming during the conversations. Trevis Butcher recalls that during one of the telephone conversations Lund stated he was "verifying addresses for affidavits," but Lund did not mention *NIM* or CI-97. Following his two telephone conversations with Lund, Butcher telephoned the BPD and confirmed that Lund was on duty when he went to 208 Pricket #1.

19. Trevis Butcher filed the complaint because he believed Lund was working on a political campaign while on the public payroll.

20. After his trip to Helena on July 17, 2006, to meet with representatives of *NIM*, Lund exchanged correspondence with *NIM* regarding his bill. On July 19, 2006, Lund sent an email to Jackie Boyle with a statement for his services. His email states that on July 17, 2006 he spent nine hours of travel time between Billings and Helena, which he billed at his normal BPD hourly rate of \$23 per hour. Lund billed his examination time at \$75 per hour (his standard rate), starting at 10:30 a.m. on July 17, 2006 (upon his arrival in Helena) and ending at 3:00 p.m. that day, for a total amount of \$337.50. Lund's total bill to *NIM* was therefore \$544.50, and covered only his time on July 17, 2006.

Lund followed his email with a letter, dated August 2, 2006, to Jackie Boyle and *NIM*. The letter was sent on Lund's *Rocky Mountain Crime Consultants* letterhead, and it again set forth his time and hourly charges for his work performed on July 17, 2006. *NIM* paid Lund the full amount of \$544.50 with a check dated August 8, 2006.

21. Lund never reported his findings regarding his visit to 208 Pricket #1 to any representatives of *NIM*. Lund did not bill *NIM* for his time investigating who resided at 208 Pricket #1. Lund stated that he followed up on the question of whether King resided at 208 Pricket #1 because he was "curious."

22. Lund has not contributed to *NIM* or to any effort to oppose CI-97, nor did he take a public position either in favor of or in opposition to CI-97. Lund's only association with *NIM* was through the business arrangement for which he billed *NIM* \$544.50.

23. Trevis Butcher stated that Marvin King was using Becky Butcher's address because he was from out of state and he needed a local address so that he could receive his local mail and copies of the petitions. Trevis Butcher said he asked Becky Butcher whether King could use her address, and she consented.

### **STATEMENT OF FINDINGS**

Trevis Butcher contends that Brett Lund violated § 13-35-226(4), MCA, which provides:

#### **Unlawful acts of employers and employees.**

...

(4) A public employee may not solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue while on the job or at the place of employment. However, subject to 2-2-121, this section does not restrict the right of a public employee to perform activities properly incidental to another activity required or authorized by law or to express personal political views.

...

There is no evidence that Lund at any time engaged in activities that amounted to solicitation of support for or opposition to CI-97. The activities that Lund engaged in for *NIM* arose out of his business relationship with *NIM*, and were not based on Lund's personal views regarding CI-97.

Although Lund decided to inquire about the 208 Pricket address, Lund did not continue to work for *NIM* following his return to Billings from Helena on July 17, 2006. Lund did not report his findings regarding the 208 Pricket address to *NIM*. Lund did not bill *NIM* for the time he spent investigating the address at 208 Pricket.

While one could legitimately question Lund's judgment when he investigated the 208 Pricket address while on duty with the BPD, there is no evidence that he violated § 13-35-226, MCA.

### **CONCLUSION**

Based on the preceding Summary of Facts and Statement of Findings there is insufficient evidence to conclude that Brett Lund violated Montana campaign finance and practices laws.

Dated this 25<sup>th</sup> day of January, 2007.

A handwritten signature in black ink, appearing to read "Dennis Unsworth", written over a horizontal line.

Dennis Unsworth  
Commissioner